

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
RAMON ESPINOSA,	:	
	:	
Plaintiff,	:	
	:	23-CV-4050 (VSB)
-against-	:	
	:	<u>ORDER</u>
RGB MANAGEMENT CORP. <i>d/b/a Morton</i>	:	
<i>Williams</i> , and CARLOS MARTINEZ,	:	
	:	
Defendants.	:	
-----X		

VERNON S. BRODERICK, United States District Judge:

On October 24, 2023, Plaintiff filed an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). “[W]hen a plaintiff properly amends [a] complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020). Accordingly, it is hereby:

ORDERED that Defendants shall file a letter within seven (7) days deciding whether their motion to dismiss should be deemed moot without prejudice to refile a new motion to dismiss in accordance with Federal Rule of Civil Procedure 15(a)(3), or if I should evaluate Defendants’ current motion to dismiss in light of the facts alleged in the amended complaint.

Because Plaintiff withdrew his claims against Local 338 RWDSU/UFCW and Cathy Pimentel (the “Union Defendants”), the Union Defendants are dismissed from this action and the motion to dismiss pending at Doc. 12 is DENIED as moot.

The Clerk of Court is respectfully directed to terminate the motion pending at Doc. 12.

SO ORDERED.

Dated: October 25, 2023
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style with a large initial "V".

Vernon S. Broderick
United States District Judge